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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/656,464

09/05/2003

Glen S. Axelrod

TFH047

8440

32047

7590

12/03/2008

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EXAMINER

COLE, ELIZABETH M

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

12/03/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/656,464	AXELROD, GLEN S.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Elizabeth M. Cole	1794	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 October 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 8-14, 16 and 19-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-14, 16, 19-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/14/08 has been entered.

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-5, 8-14, 16, 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Denesuk et al, U.S. Patent NO. 6,196,156 in view of Jordan, U.S. Patent No. 5,226,384, Sullivan, U.S. Patent No. 5,087,499 and Sabee, U.S. Patent No. 4,910,064. Denesuk et al discloses an article for use by pets comprising a core which may comprise foam or other types of fillers such as synthetic and natural fibers, (col. 10, lines 28-41) and a fabric cover. The fabric cover may comprise two different types of fabric and each type of fabric only partially covers the core. See col. 10, line 60 – col. 11, line 7 and col. 11, lines 38-46 as well as example 4. Suitable fabrics include polyolefins, acetate, acrylic, nylons and polyesters. See col. 11, line 65 – col. 12, line 4. The fabrics can be woven, non-woven or knitted. See col. 9, lines 31-43. Denesuk differs from the claimed invention because Denesuk does not teach that at least one of

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the fibers should be a high strength fiber. Jordan teaches that high strength fibers such as aramid fibers can be used in forming covers for articles used by pets. See abstract.

Therefore, it would have been obvious to have employed high strength fibers for parts of the cover of Denesuk which would be most exposed to wear and tear, biting, chewing, etc., motivated by the expectation that this would enhance the durability of the bed.

Jordan teaches employing high strength fibers but does not teach blending the fibers with other fibers. Sullivan teaches that is known in the art to blend high strength fibers with other fibers, such as cotton, silk, nylon, polyolefins, etc. See col. 3, lines 56-64.

Therefore, it would have been obvious to have blended the high strength fibers of Jordan with other fibers as taught by Sullivan, in order to form yarns which had additional properties such as enhanced softness, absorbency, hydrophobicity, etc., depending on what the final properties desired in the fabric were. For example, silk and cotton fibers would have been known in the art to provide enhanced softness and absorbency to a fabric relative to using all aramid yarns. Polyolefin yarns would produce a more hydrophobic fabric. Also, considerations of economy would tend toward blending the fibers in order to arrive at a fabric having the desired properties at an economical cost. Jordan teaches employing multiple layers of high strength fibers for use in forming articles for use by pets. Neither Denesuk nor Jordan teach orienting the layers so that they have different axes of orientation relative to each other. Sabee teaches that in forming nonwoven fabrics that such fabrics can be formed to comprise multiple layers wherein each layer has an axis of orientation which is an angle to another layer's axis of orientation. See drawings as well as abstract. Sabee teaches

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that employing the different layers each with an axis of orientation where the axis is at an angle to other layers improves the drapability of the fabric while also producing a material of increased strength. See col. 7, line 25 - col. 9, line. Therefore, it would have been obvious to have oriented the nonwoven layers of Denesuk so that they had a different axis of orientation relative to each other as taught by Sabee, in order to produce a stronger and more drapable material.

2. Applicant's arguments have been fully considered but are moot in view of the new grounds of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

The examiner's supervisor Rena Dye may be reached at (571) 272-3186.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (571) 273-8300.

/Elizabeth M. Cole/  
Primary Examiner, Art Unit 1794

e.m.c